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March 14, 2002

George Stafford
New York State Department of State
Division of Coastal Resources and
Waterfront Revitalization
41 State Street
Albany, New York 12231-0001

Re: Millennium Pipeline Company, L.P.
F-2001-0246 (formerly F-98-0173)

Dear George:

On behalf of Millennium Pipeline Company, L.P. ("Millennium"), we are responding to the February 19, 2002 letter (hereinafter the "K&E Letter") that was submitted to Mr. Steven C. Resler of the Department of State ("DOS") by the law firm of Kirkland & Ellis. Kirkland and Ellis, as you are aware, has been retained by the Village of Croton-on-Hudson to oppose the Millennium Pipeline Project in various agency proceedings. For the reasons set forth below, there is utterly no basis for any of Kirkland & Ellis' contentions about the potential effects of any limited blasting that may be required to construct the Millennium pipeline near the eastern shore of the Hudson River.

Initially, Kirkland & Ellis' assertion that Millennium has tried to conceal the potential need for a limited amount of blasting in the Hudson River is plainly untrue. Indeed, Kirkland & Ellis concedes in its letter that Millennium disclosed the potential need for blasting in the Hudson River "nearly four years ago" at the very beginning of the regulatory review process

and reconfirmed the potential need for blasting near the eastern shore of the river in an October 2001 submission to the U.S. Army Corps of Engineers (K&E Letter at 2). Millennium, nevertheless, recognizes that the possible need for a limited amount of blasting in the Hudson River was not addressed until recently in Millennium's submissions to the DOS, regrets that oversight, and renews its commitment to provide the DOS with full and complete information on all aspects of the Millennium Project that are subject to review by the DOS.¹

Kirkland & Ellis also tries in vain (K&E Letter at 5) to contest Millennium's representations that the FERC has confirmed the consistency of the Millennium Project with the New York Coastal Management Program ("CMP") in several important respects. However, Kirkland & Ellis does not and could not deny that the FERC's December 19, 2001 order approving the Millennium Project addressed the key CMP issue of the public need for the Project, concluding that "the benefits of Millennium's proposed project are clear and significant." *Millennium Pipeline Co.*, 97 FERC ¶ 61,292 at 62,321 (2001). Moreover, Kirkland & Ellis' contention (K&E Letter at 5) that the FERC's Final Environmental Impact Statement ("FEIS") "fails to apply or otherwise make any reference" to CMP Policy 7 (the "significant habitat" criteria) is patently false. As the FEIS plainly and unmistakably concludes: "Consistency with Policy 7 is summarized below and discussed in greater detail in appendix J and the EFH Assessment and BA issued January 2001." FEIS at 5-132; see also FEIS at 5-70.

Millennium recognizes that the DOS must ultimately decide the consistency of the Millennium Project with the CMP policies, but the FERC's consistency determinations should obviously be accorded significant weight given that the FERC is the federal agency charged with the duty to determine the need for an interstate gas pipeline and the lead agency under NEPA for the purpose of evaluating the environmental impacts of the proposed project. Deference to the FERC's findings in this instance is particularly appropriate given the DOS's insistence that the FERC provide its analysis of the Project's consistency with CMP policies in the FEIS (See DOS letter to FERC dated October 21, 1999).

Kirkland & Ellis' further allegation that Millennium has understated the effects of any blasting that could be required reflects a profound misunderstanding of the pipeline construction method that Millennium has proposed. Kirkland & Ellis hypothesizes that lay barges would be used to store excavated material but might be unable to access the shallow

¹ Millennium's willingness to submit further information is subject to its reservation of rights concerning the timing of DOS review as is set forth in prior correspondence and submissions concerning the Millennium Project.

water area near the eastern shoreline, particularly during low tide, thus requiring Millennium to sidecast the excavated material on the riverbed. K&E Letter at 6. In fact, however, Millennium has not proposed to store excavated material on lay barges, which are, as you know, used to lay the pipeline. Instead, Millennium proposes to store the excavated material in separate shallow water storage barges, which will be positioned in the already excavated trench, thus ensuring adequate draft depth. In the event that there is any excavated material that cannot be stored in the shallow water barges, that material will be stored on the shore. In short, no excavated material will be sidecast on the riverbed, contrary to Kirkland & Ellis' conjecture.

In further support of its contention that the effects of blasting have been understated, Kirkland & Ellis claims that Millennium's estimate that blasting may be limited to less than 200 feet was "arbitrary" and surmises that "other buried outcroppings could be encountered." K&E Letter at 7. But Millennium's estimate of the area potentially impacted by blasting is clearly reasonable, based upon the data that has been obtained and submitted to the DOS. In fact, only one of the borings in the Hudson revealed any rock within the depth profile to be excavated. All of the other borings revealed significant sediment depth below the elevation of the proposed excavation refuting Kirkland and Ellis' speculation. In any event, the effects of any blasting would be very limited: Only 0.002% of the designated significant habitat and 0.0008% of the contiguous functional habitat would potentially be affected. A maximum of 260 cubic yards of rock -- just 20% of the total trench volume in this area -- may need to be blasted.

Kirkland & Ellis' claims that blasting would adversely affect aquatic plants, invertebrates, and fish (K&E Letter at 7-10) are premised on selective quotations from the Keevin & Hempen report that describe the potential worst-case effects of uncontrolled, unmitigated underwater blasting. In fact, no aquatic plants are located in the vicinity of the crossing as Millennium's underwater survey confirmed. See Millennium's March 2001 Coastal Zone Consistency Determination, Attachment A-3, Table 3, (confirming that no vegetation was observed in the area). As for potential effects of blasting on invertebrates, Kirkland & Ellis once again demonstrates a misunderstanding of the proposed plan and mitigation concepts. Because the sediments overlying the rock in the potential blast area will be removed first, the bottom area in the immediate vicinity of the blasting will be rendered unsuitable for invertebrates before blasting takes place. This change in habitat conditions would minimize the abundance of invertebrates in the area affected by the blast. Following backfilling of the trench with the excavated rock and the original overlying sediment, the benthic habitat would be rapidly recolonized from the nearby unaffected benthic community. These concepts were discussed at length in Millennium's March

Other technical aspects of Millennium's proposal are worth mentioning, which further underscore Kirkland & Ellis' misunderstanding of Millennium's proposal and misuse of the Keevin and Hempen Report. Blasting would take place in shallow water which minimizes the volume of water potentially affected by the blast, thereby minimizing the numbers of fish which could occupy the area in the vicinity of the blast. The older and larger individuals of many fish species, including the shortnose and Atlantic sturgeon, shad, and striped bass, do not occur in substantial numbers in the shallow, near-shore zone of Haverstraw Bay, which tends to isolate them from blast effects. Moreover, as Keevin and Hempen show in their review of techniques to mitigate the effects of underwater blasting, an air bubble curtain can be very effective in shallow water for minimizing pressure wave effects on fish, with the pressure wave attenuated by over 90% and fish mortality reduced to zero. See Keevin & Hempen Report, Table 8.6 and accompanying text (confirming the efficacy of a bubble curtain at shallow depths: "Mortality fell from 100%, without the bubble curtain, to 0% with the bubble curtain in operation, at all distances tested"). This is to be expected because there is a relatively small volume of water to be enclosed by the air curtain. The near-shore location of the blast does not expose the air bubble curtain to the strong currents of deep, swift water, which has minimized the effectiveness of this mitigation technique in some applications. Since Millennium has proposed to use an air bubble curtain and the area where blasting may be required is shallow, Kirkland and Ellis' concerns, which are based upon impact associated with blasting that is conducted without mitigation, is simply misplaced.

Also, as discussed above, the area of the trench in which blasting may be needed is an extremely small portion of the available habitat in Haverstraw Bay and the adjacent similar habitat. Because the habitat of this area will be temporarily disturbed in preparation for the blast, the density of fish and crabs in the area will be very low. Since blue crabs prefer soft bottom habitat, it is unlikely that they will be attracted to the rocky bottom that will be exposed after the sediment is removed from the area prepared for the blast. The air bubble curtain may also serve to exclude fish and crabs from the area, and the pre-blast sonic surveys will ensure that no concentrations of fish are present at the time of the blast. These conditions and precautions will ensure that only an extremely small portion of any aquatic life population could be potentially impacted by the blast. As such, there is no conceivable way a single, shallow water blast could impact a significant portion of any of these populations. As with the excavation for the pipeline, the blasting effects on aquatic life and habitat will be small and temporary.

Kirkland & Ellis also claim that fish will be attracted to the blast area, thereby increasing adverse impacts from the blast. K&E Letter at 9. While it is true that fish have been attracted to the periphery of dredging operations to take advantage of food dislodged by the dredge, Kirkland & Ellis fail to apply this information to the proposed blast in a meaningful way. As stated clearly in the information provided in previous correspondence to the DOS and the DEC, the soft sediments overlying the rock will be removed first. This will be followed by a period of time to drill the blast holes and prepare for the blast. The turbidity from excavating the soft sediments, which is the mechanism which can attract fish to the area, will have dissipated long before the blast occurs. To the extent that any fish remain on the periphery of the blast area just prior to the blast, they would be isolated from the blast effects by the air bubble curtain.

Lastly, Kirkland & Ellis state that attempts to scare fish from a blast area have been unsuccessful and may cause fish mortality. This is true for the use of small explosive charges to scare fish, but Millennium will not use explosive charges to scare fish. Rather, Millennium will employ electronic noise generating devices to scare fish, if needed. Noise devices have been used extensively in attempts to control fish behavior with varied success, but they do not cause fish mortality.

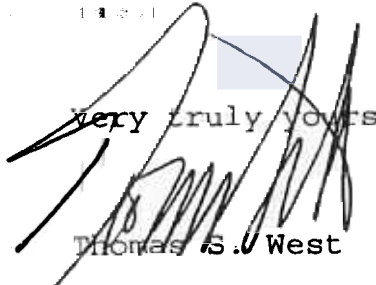
The rest of Kirkland & Ellis' arguments merit only a summary response. Because Millennium has previously explained in great detail why the Millennium Project is consistent with all applicable CMP policies, we see no need at this point to respond to Kirkland & Ellis' contrary, conclusory opinion. Similarly, Kirkland & Ellis' professed concerns that the September 1 - November 15 window for the river crossing provides insufficient time for rock removal and the development of a blasting plan have no foundation since Millennium's 10-week construction schedule includes the time required for any necessary rock removal activities, and a detailed blasting plan will be reviewed and approved by the federal and state agencies before construction commences.

On the other hand, Millennium cannot leave unchallenged Kirkland & Ellis' last assertion that the Millennium Project is not a "major energy facility" that is entitled to "priority consideration" under CMP Policy 27. K&E Letter at 15-16. To the contrary, the Coastal Zone Management Act ("CZMA") defines "energy facilities" to include facilities which will be used primarily for the "transportation" of "natural gas" (16 U.S.C. Section 1453(6)) and mandates that "priority consideration being given to coastal-dependent uses and orderly processes for siting major facilities relating to...energy..." (Section 1452(2)(D)). Policy 27 of the New York CMP implements this statutory requirement, requiring decisions on the siting of major energy facilities to be based upon "public energy need, compatibility of such facilities with the environment, and the facility's need for

a shorefront location." The FERC, carrying out its Congressionally-mandated duties to review and route proposed interstate pipelines in the national interest, has concluded that the Millennium Project is needed by New York State and the Northeast, is compatible with the environment, and must be routed through New York's coastal zone across the Hudson River at Haverstraw Bay. In short, the FERC has concluded that each of the three requirements of CMP Policy 27 has been fully satisfied, and the Millennium Project is, therefore, entitled to priority consideration under the CZMA.

Finally, we want to briefly respond to your letter of March 1, 2002, wherein you indicate that DOS decision making may await the submission of a blasting plan. Simply put, there is no reason to hold off DOS decision making for a blasting plan. All of the salient mitigation measures to ensure that the impacts from any blasting that may be required are reduced to acceptable levels are set forth in our correspondence to the DOS, the DEC, and the Corps of Engineers concerning this issue. All of those commitments will be incorporated into the blasting plan when it is prepared and submitted for review. Accordingly, there is no need to withhold decision making for a blasting plan.

On the basis of the foregoing and all of the information that has been submitted to the DOS concerning this Project since November of 1998, Millennium respectfully requests that the DOS promptly complete its review of the Millennium Project and conclude that the Project is consistent with all applicable CMP policies.

Very truly yours

Thomas S. West

tsw/pmo 74908

cc: Millennium Pipeline Company, L.P.
Frank P. Milano, First Deputy Secretary of State
James King, Esq.
William Sharp, Esq., w/enc.

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February 22, 2002

George Stafford, Assistant Director
New York State Department of State
Division of Coastal Resources &
Waterfront Revitalization
41 State Street
Albany, New York 12231-0001

Re Millennium Pipeline Company, L.P.
F-2001-0246 (formerly F-98-0173)

Dear George

Thank you for the opportunity to meet with you and Department of State ("DOS") Staff this week concerning the Millennium project and the potential for a very limited amount of blasting near the eastern shore of the Hudson river. We trust that the information that we provided was informative and resolves any concerns that you may have regarding that issue and the consistency of the Millennium Project with the New York Coastal Management Program ("CMP")

As was discussed during our meeting, there is only a potential for a very limited amount of blasting within 200 feet of the eastern shoreline of the Hudson river. If blasting is required, Millennium has proposed mitigation measures in our correspondence to DOS and the New York Department of Environmental Conservation that will ensure that the resources of Haverstraw Bay are not adversely impacted. Those commitments along with all of the other commitments that Millennium has made regarding the Hudson River crossing at Haverstraw Bay demonstrate

George Stafford, Assistant Director
February 22, 2002
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that the Millennium project continues to be consistent with the CMP.

Moreover, as is noted in prior correspondence, the recent findings by the Federal Energy Regulatory Commission and the New York State Public Service Commission concerning the need for the Millennium project further demonstrate the consistency of this project with the CMP as a major energy facility that is entitled to preferential consideration. SEE letter to William Barton, January 25, 2002, pp. 5-6.

We understand from our meeting that the DOS now has all of the information that it needs regarding the Millennium Project to make its decision re the consistency of the Millennium Project with the CMP. We look forward to receiving a decision from the DOS soon and, in accordance with prior correspondence, reserve all rights concerning the timeliness of DOS review.

Once again, thank you for the opportunity to meet with you and discuss these issues.

Very truly yours

Thomas S. West

TSW/pmo/74594

cc: Millennium Pipeline Company, L.P.
Frank P. Milano, First Deputy Secretary of State
James King, General Counsel

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February 12, 2002

HAND DELIVERED

George Stafford, Assistant Director
New York State Department of State
Division of Coastal Resources &
Waterfront Revitalization
41 State Street
Albany, New York 12231-0001

Re Millennium Pipeline Company, L.P.
F-2001-0246 (formerly F-98-0173)

Dear George:


The purpose of this letter is to confirm our meeting next week and to transmit certain additional information concerning the potential for limited blasting in the Hudson River.

Initially, this will serve to confirm that we have scheduled a meeting for Tuesday, February 19, 2002 at 1:30 PM at your offices. Lynn Mueller, Rick Hall, Jim Albitz and I will attend on behalf of Millennium.

In addition, as discussed, enclosed please find a copy of our recent correspondence to the New York State Department of Environmental Conservation and a copy of the comprehensive study of underwater blasting referenced in that correspondence. We trust that this information will be useful to you and the Department of State Staff in preparing for the meeting on Tuesday.

George Stafford, Assistant Director
February 12, 2002
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We look forward to meeting with you and resolving all outstanding issues concerning Coastal Zone consistency.

Very truly yours,

Thomas S. West

TSW/pmo/74416
Enclosures

cc Millennium Pipeline Company, L.P.
Frank P. Milano, First Deputy Secretary of State
James King, Esq.
William Sharp, Esq., w/enc.

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February 6, 2002

William Little, Esq.
Associate Attorney
New York State Department of
Environmental Conservation
625 Broadway
Albany, New York 12233-5550

Re: Section 401 Water Quality Certificate Issued to
Millennium Pipeline Company, L.P.
FERC Docket No. CP 98-150-000, et al.

Dear Bill:

The purpose of this letter is to supplement the information provided to the Department by Millennium Pipeline Company, L.P. ("Millennium") in its letter dated January 10, 2002, concerning the potential for blasting in the Hudson River, to address why any such blasting would be consistent with the requirements of the Section 401 Water Quality Certificate issued by the Department on December 8, 1999 (hereinafter the "Water Quality Certificate"), and to propose a procedure for amending the Water Quality Certificate relative to any supplemental conditions the Department decides may be appropriate relative to the potential for limited blasting in the Hudson River and by reason of final route modifications in Westchester County.

As an initial matter, regarding the consistency of the potential for blasting with the existing Water Quality Certificate, for the reasons stated below, Millennium believes that the potential for the very limited amount of blasting in less than 200 feet of the Hudson River proximate to the eastern shoreline is already dealt with in, and is therefore consistent with, the Water Quality Certificate.

William Little, Esq
February 6, 2002
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As you are aware, the Water Quality Certificate issued relative to the Millennium Project, in general, and the Hudson River crossing, in particular, contains general conditions and detailed special conditions. The special conditions, in turn, contain conditions that apply to water body crossings throughout the entire Project, as well as detailed conditions that are applicable to specific water body crossings, including the Hudson River crossing. None of the general conditions are affected by the potential for blasting. Likewise, none of the special conditions of project-wide applicability are impacted by the potential for blasting in the Hudson River. In fact, among the special conditions that apply to the entire Project is Condition No. 5, which sets forth twenty (20) specific requirements that apply to stream crossings throughout the entire Project. Subconditions "O", "P", and "Q" of Condition No. 5 apply to any blasting that is required in "any water body." Subcondition "O" requires that blasting be employed in Lake Erie or any other water body only during the time periods allowed in the Construction Alignment Sheets; subcondition "P" requires that all blasting be conducted using inserted delays of a fraction of a second per hole and have stemming placed into the top of each borehole to dampen the shock wave reaching the water column, thereby reducing the potential impacts to fish from blasting; and subcondition "Q" requires Millennium to employ sonar with all blasting operations to detect the presence of fish and prohibits blasting during the passage of schools of fish. Each of these conditions applies equally to blasting in the Hudson River to mitigate potential environmental impacts associated with any blasting that may be required. Thus, there is no conflict between the potential for blasting in the Hudson River and the conditions of the existing Water Quality Certificate.

In fact, as detailed in this letter and the enclosure with Millennium's January 10, 2002, letter, the additional mitigation measures that Millennium intends to employ if blasting is required in the Hudson River go well beyond the requirements of the existing Water Quality Certificate. In addition to conditions applicable to all stream crossings for the entire Project, the Water Quality Certificate also includes detailed conditions relative to the Hudson River crossing. As currently stated, Subcondition "A" of Special Condition No. 7 requires that all construction in the Hudson River occur within the construction window of May 1 until July 31. The Department has since agreed to change that construction window to run from September 1 through November 15. We understand that the Department will issue a minor administrative amendment of the Water Quality Certificate when it is amended to address route alignment changes in Westchester County, as is more fully discussed below.

The remaining subconditions of Condition No. 7 regarding the Hudson River crossing detail the many mitigation measures that will be employed by Millennium to minimize construction related impacts associated with the Hudson River crossing. All of those conditions apply equally to the construction activities that will occur in the very limited area where blasting may be required. Therefore, the existing Water Quality Certificate adequately addresses the potential for limited blasting in the Hudson River and there is no inconsistency with the existing Water Quality Certificate.

Blasting, if required, will only be conducted in a very limited area and will only involve a limited amount of rock. Based upon borings of the Hudson River, it is anticipated that the dredging in the Hudson River may encounter rock in an area of shallow water that is within 200 feet of the eastern shoreline of the route. The documents provided with Millennium's January 10th letter include a profile of the near shore area on the eastern bank of the Hudson River. The specific borings note the potential for rock in that area, as does the rock outcrop on the shoreline. As a consequence, Millennium has planned for the contingency that blasting may be necessary. If rock is encountered, Millennium estimates that a maximum of 260 cubic yards of rock will need to be removed, which represents only 20% of the trench volume in this area.

As the first step in the dredging process near the eastern shoreline, Millennium will remove sediment with the same methods proposed for the shallow water areas of the Hudson River Crossing -- by using an environmental bucket and other mitigation measures to ensure that turbidity is kept to a minimum and that the conditions of the Water Quality Certificate are met. If rock is encountered, it is likely that the environmental bucket will remove at least some of the rock, particularly the fractured rock that is likely to exist at the interface between the rock and the overburden. At this point, a determination will be made as to whether the rest of the rock is susceptible to removal via mechanical means. If the rock integrity is such that it can be removed with mechanical techniques, the environmental bucket or a barge mounted excavator will be used to remove the rock. If a barge mounted excavator is used, it will only be used after the sediment and at least some rock has been removed with the environmental bucket. In addition, the environmental bucket will be used to remove sediment to an appropriate setback distance to prevent the rock removal operations from disturbing nearby sediments with resulting turbidity. The setback distance will be established in the field based upon the depth of the sediment and the rock, and sound engineering judgment. In no event will the construction work area be greater than that originally proposed for this crossing. Since the excavator will be working in rock,

turbidity is not expected to be a problem, which will be confirmed in accordance with the monitoring conditions of the Water Quality Certificate. However, if mechanical techniques will not be totally effective, the fracturing of some rock with blasting techniques will be required to facilitate rock removal to the desired trench depth.

At the time Millennium requests an amendment of the Water Quality Certificate, as is addressed below, Millennium will submit a blasting plan to the Department for its review and approval. The blasting plan will define the spacing, hole diameter, hole pattern, charge size, and stemming procedures to mitigate the pressure wave generated by the blasting. It will also include all of the information that is available at this time concerning the potential location of rock in the Hudson River, the nature of the rock, and its integrity, and will be revised and resubmitted no later than 90 days prior to the start of construction in the Hudson River, if necessary, based upon site specific geotechnical information that will be gathered in advance of that time. The blasting plan will again be reviewed and approved by the Department before blasting proceeds in the Hudson River.

The blasting plan will include measures to ensure that only the minimum charge necessary to fracture the rock is used. In order to reduce the pressure wave, the blasting will be conducted as a series of blasts separated by defined millisecond delays, and every reasonable effort will be made to conduct the blasting in one episode. Since rock is anticipated only in a very limited area within 200 feet of the shoreline, conducting the blasting in a single episode is practicable.

Other mitigation measures will also be incorporated into the blasting plan. Prior to any blasting, a side scan sonar survey of the area will be conducted (as is required by the Water Quality Certificate) to ensure that no concentrations of fish are present in the immediate vicinity of the blast. Typically, the noise and activities associated with ongoing construction activities are sufficient to scare fish from the area. If that is not the case, as confirmed by the sonar survey, scare charges or other noise generating devices will be utilized to scare the fish away. Also, the blast area will be cordoned off with an air bubble curtain that will serve two beneficial purposes. First, the bubble curtain will serve to help keep fish out of the immediate area of the blast. Second, the bubble curtain can be very effective in attenuating the pressure wave. The comprehensive study of underwater blasting referenced in the enclosed document (Keevin and Hempen 1997) points out that air bubble curtains can be extremely effective in mitigating any adverse impacts to fish species associated with underwater blasting when conditions are appropriate. Given the shallow water environment of the near shore area, Millennium is

confident that the bubble curtain will be very effective in attenuating the pressure wave outside of the bubble curtain and, thus, avoiding adverse impacts to any fish species that may be in the nearby area. Importantly, these techniques will avoid impacts to the shortnose sturgeon and impacts to other species that are of concern in the Haverstraw Bay portion of the Hudson River.

Since trenching in rock eliminates the need to have the gradual side slopes associated with soft bottom sediments, there is the very real possibility that trenching in rock will actually reduce the amount of material that must be removed by as much as 50%. Reducing the footprint impacted by construction is a minor benefit associated with encountering rock in this area.

Once blasting has been completed, the fractured rock will be removed with mechanical means and stored in barges. After placement of the pipeline, the trench in this area will be backfilled with the excavated rock (which will be broken up from the blasting and excavation process). Native sediments will be placed on top of the backfill to the approximate original depth contours. The placement of the original sediments back into the trench will permit tidal action to establish a substrate suitable for recolonization by benthic invertebrates from adjacent undisturbed areas. This benthic community will provide a food resource for fishes, thus avoiding any impairment of the ecological function of the area. This area of Haverstraw Bay is expected to return to full productivity in the same time as the remainder of the crossing. See Millennium Pipeline Project Coastal Zone Consistency Determination, March 2001, pp. 35, 38 (hereinafter "March 2001 Consistency Determination"). Thus, any impacts to this area would be minor and temporary. It should also be pointed out that the area potentially impacted by blasting is only a very small portion of the area impacted by the entire crossing and an even smaller percentage of Haverstraw Bay and the functional habitat associated with Haverstraw Bay. Less than 1% of the overall crossing area is potentially impacted by blasting. Since the footprint of the entire area to be dredged in Haverstraw Bay is only .2% of the designated significant habitat and .08% of the functional habitat (March 2001 Consistency Determination at 33), the area potentially affected by blasting is only .002% of the designated significant habitat and .0008% of the functional habitat; i.e., a very small area.

Nor will the potential for blasting affect the planned construction schedule. The FERC Order notes that "[a]fter a collaborative process with appropriate Federal and state agencies, Millennium proposes to cross the Hudson River within the agreed upon window between September 1 and November 15. We will require Millennium to use the proposed construction methods and timing window to minimize construction impacts to the habitat in

Haverstraw Bay." Order at 51. Because the potential for blasting is confined to such a small area and the quantity of rock potentially to be removed is very small, there will be no impact to the construction schedule. As the construction equipment approaches the eastern shore of the Hudson River, the dredging equipment will move forward to remove the sediment and any rock that is susceptible to removal by mechanical means in this very limited area. By that time, the rock on the upland portion of the shoreline will have been removed, leaving a shoreline plug in place. The removal of rock in the upland area will provide a good indication of the integrity of the rock below the riverbed and whether blasting will be necessary. If it appears that blasting will be necessary, the blasting plan discussed above will be followed. Following removal of the sediment and any rock that can be removed by mechanical means, the blasting plan will be implemented with all of the mitigation measures discussed above. The dredging equipment will then be brought back to the area to remove the fractured rock and the shoreline plug. All of this is routine and none of this activity is expected to affect the construction schedule, the agreed upon construction window, or the ability of Millennium to comply with the requirements of the Water Quality Certificate.

In addition, you have requested that we address the need for, and appropriate timing of, an amendment to the Water Quality Certificate should the Department determine that it is appropriate to amend the existing Certificate relative to the potential for blasting in the Hudson River. For the reasons set forth above, we believe that the existing Water Quality Certificate already addresses blasting and includes specific conditions that are equally applicable to potential blasting in the Hudson River. Nevertheless, Millennium has no objection to the Department supplementing the Water Quality Certificate with additional conditions that are consistent with the mitigation measures discussed above and in the enclosure submitted with Millennium's January 10, 2002, letter.

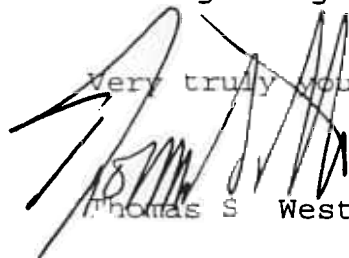
Regarding the timing of any such amendments, as you are aware, there have been route alignment changes in Westchester County since the Department's Water Quality Certificate was issued in December of 1999. In fact, route alignment issues are still being discussed regarding Mount Vernon and other areas of Westchester County. Once the alignment in Westchester County is finalized, Millennium will request from the Department a minor modification of the Water Quality Certificate to address the alignment variations and their impact on specific water body crossings. Since most of the water body crossings along the revised alignment in Westchester County will occur in close proximity to those that were considered in the existing Water Quality Certificate, Millennium does not anticipate that the

William Little, Esq
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Department will find any need to make any substantial revisions to the Water Quality Certificate to address the final route alignment in Westchester County.

We trust that the information supplied with this letter and in Millennium's January 10, 2002 letter demonstrate that the potential for limited blasting in the Hudson River is adequately addressed in, and is consistent with, the existing Water Quality Certificate and will not lead to any significant adverse environmental impacts in the Hudson River.

Please confirm at your earliest convenience the substance of the Department's position concerning the potential for blasting in the Hudson River and the Department's position regarding the procedures the Department will follow regarding amendment of the Water Quality Certificate.

Very truly yours

Thomas S. West

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Cc: Millennium Pipeline Company L.P